

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of :	
Modernizing the E-Rate Program for Schools and Libraries	WC Docket No. 13-184

**COMMENTS BY JIVE COMMUNICATIONS, INC.
RELATED TO THE E-RATE 2.0 NOTICE OF PROPOSED
RULEMAKING**

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Jive Communications, Inc. submits these comments in response to the Notice of Proposed Rulemaking (NPRM) released by the Commission in the above-captioned proceedings on July 23, 2013.¹ The NPRM initiates a thorough review and update of the

¹ See Notice of Proposed Rulemaking released on July 23, 2013, FCC 13-100, *available at* <http://apps.fcc.gov/ecfs/document/view?id=7520932914> (last accessed September 13, 2013).

E-rate program and seeks comment on ways to comprehensively modernize E-rate and improve the efficiency and administration of the program.

In these comments, Jive commends the Commission for its attention to the changing needs of schools and libraries under the E-rate Program. Jive also urges the Commission to (1) increase the size of the USF E-rate fund to match today's needs and (2) to reaffirm its commitment to providing access to basic voice service as a critical element of E-rate funding. Jive remains committed to the belief that the Commission should create E-rate eligibility rules that do not artificially favor or disfavor certain providers or technologies at the expense of others. Jive also believes the Commission should continue to provide funding for basic voice service, including VoIP service, because voice service is essential to the operation and successful functioning of a school and VoIP services present a more cost-effective option than circuit-switched voice. Even if the Commission elects to remove traditional or POTS voice service from the ESL, it should maintain eligibility for VoIP which generally provides greater functionality at a lower total cost of ownership than traditional telephony. Furthermore, Jive believes the Commission's rules in this area should be clear, predictable, should apply equally to all providers and technologies, and should not distort competition in favor of one technology or provider over another.

Introduction

Jive Communications, Inc. is an enterprise provider of interconnected Hosted Voice over Internet Protocol (VoIP), Video and Unified Communications services, which serves tens of thousands of customers in various industries throughout the United States. Jive provides telecommunications services to large government and education clients and has participated in the E-rate Program since FY 2010. Jive has seen significant growth in its sales to Schools and Libraries over each of the last three years.

Since it began participating in the E-rate program, Jive has worked diligently to develop service offerings that comply with the E-rate rules, while offering superior value and functionality to its E-rate applicant customers. Jive is committed to encouraging rulemaking that minimizes regulatory uncertainty and the risk of funding commitment delays, denials, or adjustments.

Discussion

As the State E-rate Coordinator's Alliance has noted, the Telecommunications Act of 1996 directs the Commission to enhance "*access* to advanced telecommunications and

information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries.”²

Consistent with this Congressional mandate, the Commission has proposed three goals for the E-rate program:

- (1) Ensuring schools and libraries have affordable access to 21st Century broadband that supports digital learning;
- (2) Maximizing the cost-effectiveness of E-rate funds; and
- (3) Streamlining the administration of the E-rate program.³

The Commission’s goals correctly identify the sea-change underway in the nation’s schools and libraries as high-capacity broadband and cloud-based computing become ubiquitous in the United States. E-rate fulfills a critical need by supporting the adoption of high-capacity broadband access for the program’s participants. But it is no secret that the Program has been chronically underfunded. The Commission should take steps to responsibly increase the size of the USF E-rate fund to match today’s needs as closely as possible.

On the other hand, many of the existing practices—and some of the changes proposed in the NPRM—threaten to jeopardize the Commission’s ability to effect the Congressional mandate. Jive appreciates the opportunity to respond to the Commission’s proposed rulemaking, “Modernizing the E-rate Program for Schools and Libraries.”

I. As it focuses E-rate Funds on supporting broadband to and within schools and libraries, the Commission should resist the urge to improperly limit E-rate spending to broadband connectivity (¶¶5-16).

One of the Commission’s goals in the proposed rulemaking is to seek comment on ways to ensure better access to high-capacity broadband by eligible schools and libraries.⁴ The Commission has correctly identified the challenges facing the nation’s schools and libraries as high-capacity broadband and cloud-based computing become ubiquitous in the United States. E-rate fulfills a critical need by supporting the adoption of high-capacity broadband access for the program’s participants. But the Program fulfills other critical

² See Letter from Gary Rawson, State E-rate Coordinators’ Alliance, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6, at 6 (filed Jun. 24, 2013) (attaching SECA’s “Recommendations for E-rate Reform 2.0”) (SECA June 2013 White Paper).

³ NPRM, at 7.

⁴ NPRM, at ¶ 12.

needs as well, and the Commission should not let its enthusiasm for broadband access undervalue the role of basic voice service and other, non-broadband services.

For instance, Commissioner Rosenworcel suggests that it is time to take a hard look at “the estimated \$600 million we currently spend on outdated services like paging and free up those funds for more high-capacity broadband.”⁵ No one, least of all Jive, credibly argues that taxpayer money should be frittered away. Jive notes, however, the \$600 million figure must certainly represent far more diverse and essential services than just paging.

While there is no question that some services are outdated and should not be supported (pagers are perhaps the best example in the context of E-rate), the demise of a technological fad that became passé nearly a decade ago hardly supports eliminating a key communications component like basic voice service. But whatever the technology, the Commission should recognize in the \$600 million budget outlay one key idea: voice services are integral to the educational efforts of our schools and providing access to them supports the *primary* aim of the E-rate program by supporting access to advanced telecommunications— including voice communications—in schools and libraries.⁶

II. As it adopts goals for connectivity, the Commission should not utilize inflexible standards which prevent local decision makers from addressing their own specific needs (§ 19-33).

As the agency in charge of a large and complex federal program, the FCC has an obligation to establish policies for the use of the funds it directs. But the Commission should not use its authority to impose arbitrary goals, like the elimination of voice services, which ignore significant parts of the Program’s purpose and which distort the market by preventing local decision-makers from adapting a solution to meet their individual local needs.

Few, if any, schools will opt *not* to provide basic voice services in order to increase broadband connectivity on its campus; any school or library administrator who proposed such an idea would quickly be silenced by a public outcry. In consequence, if the Commission halts funding for voice services, schools and libraries will need to divert their already strained IT budgets to pay for the shortfall. This will, in turn, reduce the funding

⁵ See Statement of Commissioner Jessica Rosenworcel re: Modernizing the E-Rate Program for Schools and Libraries, WC Docket No. 13-184, NPRM pp. 169-175.

⁶ Section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 1302(d), defines “advanced telecommunications capability” as “any transmission media or technology . . . that enables users to originate and receive high-quality *voice*, data, graphics, and *video telecommunications* using any technology” (emphasis supplied).

available to pay the non-discounted portion of eligible Priority 1 broadband service, with the net effect being to reduce the school's ability to purchase broadband.

Some commenters, such as the Fresno Unified School District, have pointed out flaws they perceive in bandwidth goals such as 1Gbps per 1000 users in all schools by 2017.⁷ It is not our purpose to debate the particular merits of the Fresno School's analysis or the goal of achieving 1 Gbps of bandwidth per 1000 users by 2017. But in making its objection, the Fresno Unified School District implores the Commission to give it the flexibility it needs to address its own needs. If the history of the E-rate program teaches anything (whether it be the development of the Priority 1/Priority 2 distinction or the introduction of the 2-in-5 Rule), it teaches that the Program is more effective when local decision makers are given more power to direct the fate of its budget and technology adoption. Jive points out that the Commission's actions should reflect the experience and the needs of each district where E-rate is implemented. Even as the Commission looks to prepare for the needs of the future, it should not impose new policies or standards without the input of these real-life laboratories where the Commission's policies are put into actual practice.

Without downplaying the growing importance of data services, person-to-person voice communication remains an absolutely necessary element of our educational system and will continue to do so for the foreseeable future. Given the wide variation in at-home availability of internet connectivity, voice-based communication remains the primary means of interaction for many students, parents, and schools. Voice-based communication is crucial to collaborative efforts for teachers *and* students where the cost of in-person or video communication is cost-prohibitive. And voice services provide a cost-effective alternative to other services, such as email, where real-time collaboration is impractical. Furthermore, voice service plays an indispensable role in cases of emergency. Entirely removing voice service from the ESL would impose significant and unnecessary burdens on the school systems.

III. Focusing E-rate funds on supporting broadband does not require the Commission to eliminate funding for basic voice (§§65-66).

As the Commission recognized in the NPRM, voice services have always been included in the services for which funding is available under the E-rate Program.⁸ Completely eliminating support for basic voice service, even if accomplished through a five-year phase out, would disproportionately affect those schools and libraries least equipped to

⁷ Eric Tilton, Comments by Fresno Unified School District Related to the E-rate 2.0 Notice of Proposed Rulemaking, p. 2 (filed Sept. 9, 2013), *available at* <http://apps.fcc.gov/ecfs/document/view?id=7520942771> (last accessed Sept. 16, 2013).

⁸ NPRM, at ¶ 66.

cope with the loss.⁹ Such a result is also counterproductive to the Universal Service goals of increasing access to “telecommunications and advanced services in schools[and] libraries.”¹⁰

On the other hand, the Commission is correct that voice services are increasingly transitioning to low-marginal-cost applications like VoIP. Jive expects this trend to continue as broadband penetrates into additional market segments and saturates the markets it has already entered. Rather than eliminating voice service funding under E-rate, the Commission should allow market forces to allocate the available funds to where they will be most effective. In other words, where basic phone service is the economically-reasonable service available it should continue to receive funding while sufficient broadband capacity is developed in that area. And even if the Commission opts to end subsidies for basic voice services, it should nevertheless continue to fund advanced services which make integrated voice and video available to all users (such as those offered by Jive) and which are still generally more cost-effective than circuit-switched voice.

IV. Transitioning voice support to broadband should not result in arbitrary funding cuts for traditional or VoIP-based voice services (§§ 104-110).

One focus of the NPRM centers on SECA’s proposal to phase out eligibility for services that are only used for voice communications. According to SECA, “Priority 1 funding should focus on the transport of high speed data and Internet communications and should transition away from voice services and web hosting.”¹¹ SECA’s proposal relies on its arbitrary assumption that “[t]hese services are *not* used to provide advanced telecommunications or information services to schools or libraries.”¹² But SECA’s assumption is fundamentally flawed.

The primary failure of SECA’s proposal is the idea that voice services as a category not do not qualify as “advanced telecommunications.” This notion is flatly contradicted by the language of Section 706 of the Telecommunications Act of 1996, which defines “advanced telecommunications capability” as “any transmission media or technology . . .

⁹ See Funds for Learning, USF for Schools and Libraries FY 2013 and Beyond: Growing to Meet the Needs of Students and Library Patrons at 31 (dated Feb. 8, 2013) (FFL Feb. 2013 Rep.) (filed by Miami Dade Public Schools, CC Docket No. 02-6 (Mar. 4, 2013)), *available at* http://www.fundsforlearning.com/docs/2013/03/MIAMI-DADE%20COUNTY%20PUBLIC%20SCHOOLS_1_7022127286.pdf (last accessed Sept. 13, 2013).

¹⁰ http://transition.fcc.gov/wcb/tapd/universal_service/

¹¹ SECA June 2013 White Paper, at 6.

¹² SECA June 2013 White Paper, at 6.

that enables users to originate and receive high-quality *voice*, data, graphics, and video *telecommunications* using any technology” (emphasis supplied).¹³

In recent years, the growth of Web 2.0 has allowed VoIP services to deliver an ever-increasing stable of ancillary services with basic phone service for less than the total cost of owning a legacy POTS/PBX telephony system. Several VoIP providers, including Jive, offer basic per-seat licenses equal to or lower than cost of traditional services. These licenses permit E-rate recipients to customize a phone system that addresses their needs and include a host of services at no additional cost, including video conferencing, voice-to-email forwarding, and other features. Driven in part by the increased availability of high-capacity broadband, cloud-based solutions like Integrated VoIP have consistently delivered increasing functionality at an ever-decreasing price.

Jive believes that many applications services which have traditionally been allocated to separate funding categories can now be combined and delivered over next-generation broadband platforms such as VoIP, typically at a substantial cost savings to applicants. The more products or services a provider like Jive can collapse into a single solution, the better schools and libraries will be able to allocate their existing budgets to develop their broadband networks and the other initiatives the Commission is sponsoring (e.g. 1-to-1 equipment purchases for students). Not only will this consolidation provide more “bang for the buck” in direct expenditures, it will increase the cost-effectiveness of *every* E-rate dollar by lowering the total expenditures a Program participant must pay for, whether using subsidized funds or not.

Not only will the availability of VoIP service increase the cost-effectiveness of every E-rate dollar, continuing funding for VoIP service also supports the goal of making high-capacity broadband more accessible to areas where obtaining high-quality broadband is currently cost-prohibitive. As we discussed above, if the Commission eliminates funding for basic voice services, many schools and libraries will be forced to allocate their shrinking budgets between voice services and investing in additional broadband infrastructure. There is little doubt that schools and libraries will choose to maintain basic phone service. But by continuing to fund VoIP the Commission can align the schools’ incentives with the Commission’s efforts to increase broadband adoption in the schools.

¹³ 47 U.S.C. § 1302(d).

V. The Commission should not require E-rate applicants who have filed Form 471 in the first year of a multi-year contract to new forms for the same contract in subsequent years (§239).

The Commission's rules prohibiting USAC from issuing multi-year funding commitments, or requiring applicants to file new copies of their Form 471 in the subsequent years of a multi-year contract even when nothing has changed, waste the applicants' time, the Commission's time and the service vendor's time. The Commission should establish a policy that permits USAC to issue multi-year funding commitments when a multi-year contract has been approved under E-rate program rules.

Conclusion

In summary, to the extent that any proposal to alter the E-rate Program limits the freedom of local decision makers to meet local needs within the statutory framework, the Commission should not adopt the proposal. In particular, the Commission should not adopt a policy favoring the adoption of high-capacity broadband in such a way as to prevent participants from obtaining essential services like basic voice service. This is particularly true where voice service can be obtained through a solution like VoIP which lowers the total cost of ownership, integrates into modern unified communications system and aligns with the Commission's goal to obtain the most value for each E-rate dollar.

Jive believes the Commission can meet its obligations to facilitate access to advanced telecommunications services in the schools and libraries at a reasonable rate by adopting policies that collapse traditionally separate product and service categories wherever possible. Rather than eliminating funding for a telecommunication service as essential as basic voice, the Commission should allow the market to determine which products and services will "sink or swim."

Jive is pleased to submit its comments and will happily make appropriate employees available to the Commission for further discussion of any of its points if necessary.

Sincerely,

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